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Paper No. 7

FENWICK & WEST LLP
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AUG 29 2002

In re Application of
Bratton, et al.
Application No. 10/046,933
Filed: October 26, 2001
Attorney Docket No. 21685-06158
For: DELIVERING MEDIA DATA TO
PORTABLE COMPUTING DEVICES

:
:
: OFFICE OF PETITIONS
: DECISION GRANTING
: PETITION
:

This is a decision on the petition under 37 CFR 1.53(e), filed June 11, 2002 (certificate of mailing date May 28, 2002), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 5, 2002, with respect to the assertion that Figures 4 and 7 were not filed on October 26, 2001.

The application was filed on October 26, 2001. On April 5, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 4 and 7 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figures 4 and 7 be accorded a filing date of October 26, 2001 on the basis that 12 sheets of drawing figures, including Figures 4 and 7, were received in the Patent and Trademark Office (PTO) on October 26, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 26, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 12 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 12 sheets of drawing figures, including Figures 4 and 7, were filed on October 26, 2001. MPEP 503. Accordingly, the request is granted.

The \$130.00 petition fee will be refunded. A treasury check will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 26, 2001, using the copies of Figures 4 and 7 submitted with the instant petition. Office records will be corrected to show that 12 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

| REQUEST FOR PATENT FEE REFUND | | | | | | | | | | |
|--|-----------------------------------|---|--------------|-----------|--|--|--|--|--|--|
| 1 Date of Request: <u>08/23/02</u> | | 2 Serial/Patent # <u>10/046,933</u> | | | | | | | | |
| 3 Please refund the following fee(s): | | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT | | | | | | |
| | Filing | | | \$ | | | | | | |
| | Amendment | | | \$ | | | | | | |
| | Extension of Time | | | \$ | | | | | | |
| | Notice of Appeal/Appeal | | | \$ | | | | | | |
| <input checked="" type="checkbox"/> | Petition | 3 | 6/11/02 | \$ 130.00 | | | | | | |
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| | Duplicate Payment | 9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table> | | | | | | | | |
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| <input checked="" type="checkbox"/> | No Fee Due (Explanation): | | | | | | | | | |
| <u>Postcard receipt proves allegedly omitted figures were present on filing. NO pet fee for Office error</u> | | | | | | | | | | |
| 11 REFUND REQUESTED BY: | | | | | | | | | | |
| TYPED/PRINTED NAME: <u>E. Shirone Walker</u> | | TITLE: <u>Petitions Attorney</u> | | | | | | | | |
| SIGNATURE: <u>E. Shirone Walker</u> | | PHONE: <u>308-6712</u> | | | | | | | | |
| OFFICE: <u>Office of Petitions</u> | | | | | | | | | | |
| ***** THIS SPACE RESERVED FOR FINANCE USE ONLY: ***** | | | | | | | | | | |
| APPROVED: <u>Alicia Kelly</u> | | DATE: <u>8/29/02</u> | | | | | | | | |

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